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PATENT AND TRADEMARK OFFICE

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Appl. No.: **10/795,807**

Confirmation No.: **7711**

Appellant/Applicants: **Salar Arta KAMANGAR, et al.**

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Title: **ARBITRATING THE SALE OF AD SPOTS TO INCREASE OFFER COMPETITION**

TC/A.U.: **3688**

Examiner: **Daniel Lastra**

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S I R:

APPEAL BRIEF

Further to the Notice of Appeal filed on November 12, 2010, which set a period for response to expire on January 12, 2011, that period being extended five (5) months to expire on June 12, 2011, the appellant requests that the Board reverse all outstanding grounds of rejection in view of the following.

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I.   Real Party In Interest

      The real party in interest is Google, Inc. An assignment of the above-captioned application from the inventors to Google, Inc. has been recorded in the Assignment Division of the U.S. Patent and Trademark Office starting at frame 0530 of reel 026308.

II. Related Appeals and Interference

There are no related appeals or interferences.

III. **Status of Claims**

Claims 1-66 are pending. Claims 1-66 are rejected.

More specifically, claims 1-5, 7-16, 34-38, and 40-49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,324,519 ("the Eldering patent") in view of U.S. Patent Application Publication No. 2002/0116313 ("the Detering publication").

Claims 6 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Eldering patent in view of the Detering publication and Official Notice. (Although not separately indicated, see pages 9 and 10 of Paper No. 20100621.)

Claims 17-20 and 50-53 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,933,811 ("the Angles patent").

Claims 21-33 and 54-66 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0103024 ("the Patel publication").

The foregoing rejections of claims 1-66 are appealed.

IV. <u>Status of Amendments</u>

There have been no amendments subsequent to the final Office Action (Paper No. 20100621).

V. Summary of the Claimed Subject Matter

The following summary of the presently claimed
subject matter indicates certain portions of the
specification (including the drawings) that provide
exemplary embodiments consistent with the claimed subject
matter. It is to be understood that other portions of
the specification not cited herein may also provide
exemplary embodiments consistent with the claimed subject
matter. It is also to be understood that the indicated
examples are merely examples. References herein to the
specification are thus intended to be exemplary and not
limiting.

Independent claim 1 recites a computer implemented
method comprising:

a) accepting, by a proxy including at least one
computer, ad spot availability information for a
pageview to be provided in response to a page
request, the ad spot availability information
accepted from a first party, wherein the first party
is not the proxy (This is supported by, for example,
410, 420 and 450 of Figure 4, 500 of Figure 5, 610
of Figure 6, Figure 8A, and paragraphs [0025],
[0026], [0030], [0054], [0055], [0079], [0084]-
[0086], [0101] and [0102] of the specification.);

b) multicasting, by the proxy, ad spot requests for
offers using the accepted ad spot availability
information to at least two second parties, wherein
the at least two second parties include at least two
ad networks that are different from the first party

and the proxy (This is supported by, for example, 450, 470a, 470b, 480a, 480b, 490a, 490b, and 495 of Figure 4, 500 of Figure 5, 620 of Figure 6, Figure 8B, and paragraphs [0052], [0053], [0090] and [0103] of the specification.);

c) receiving, by the proxy, offers (This is supported by, for example, 450 of Figure 4, 500 of Figure 5, 630 of Figure 6, Figure 8C, and paragraphs [0080], [0084] and [0104] of the specification.);

d) determining, by the proxy, at least one winning ad using the offers (This is supported by, for example, 450 and 460 of Figure 4, 510 of Figure 5, 640 of Figure 6, and paragraphs [0027], [0054], [0055], [0081], [0084], [0088] and [0105] of the specification.); and

e) providing, by the proxy, information concerning at least one of the at least one winning ad to the first party (This is supported by, for example, 450 of Figure 4, 500 of Figure 5, 650 of Figure 6, Figure 8D, and paragraphs [0082]-[0084], [0089] and [0106] of the specification.).

Independent claim 17 recites a computer implemented method comprising:

a) sending, by a content provider including at least one computer, ad spot availability information for a pageview to be provided in response to a page request, to a proxy representing at least two of (i) a first ad network, (ii) a second ad network, (iii) a first ad agency, and (iv) a second ad agency, wherein the content provider is not the proxy (This

is supported by, for example, 410, 420, 450, 470a, 470b, 480a, 480b and 495 of Figure 4, 500 of Figure 5, 610 of Figure 6, Figure 8A, and paragraphs [0025]-[0027], [0030], [0052]-[0057], [0080], [0081], [0084], [0090] and [0102] of the specification.);

b) receiving, by the content provider, information concerning at least one ad corresponding to the ad spot availability information from the proxy, wherein the information concerning the at least one ad originates from an advertiser, and wherein the advertiser is different from the proxy and the content provider (This is supported by, for example, 460 of Figure 4, 650 of Figure 6, Figure 8D, and paragraphs [0080]-[0084] of the specification.);

c) serving, by the content provider, the at least one ad corresponding to the ad spot availability information on an ad spot (This is supported by, for example, paragraphs [0039] and [0040] of the specification); and

d) receiving, by the content provider, payment related to the act of serving the at least one ad corresponding to the ad spot availability information on the ad spot (This is supported by, for example, 530 of Figure 5 and paragraph [0063] of the specification.).

Independent claim 21 recites a computer implemented method comprising:

a) accepting, by a proxy including at least one computer, ad availability information from an

advertiser, wherein the ad availability information is associated with an ad to be served, and wherein the advertiser is not the proxy (This is supported by, for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].);

b) multicasting, by the proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein the at least two content owners are different from the advertiser and the proxy (This is supported by, for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].);

c) receiving, by the proxy, offers to place an ad of the advertiser on at least one ad spot of at least one pageview of each of the at least two content owners (This is supported by, for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].);

d) determining, by the proxy, at least one winning ad spot using the offers (This is supported by, for example, paragraph [0091].); and

e) providing, by the proxy, information concerning at least one of the at least one winning ad spot to the advertiser (This is supported by, for example, paragraph [0091].).

Similar to the method of claim 1, independent claim 34 concerns an apparatus comprising:

a) at least one processor (This is supported by, for example, 710 of Figure 7 and paragraphs [0095]-[0099] of the specification.);

b) an input device (This is supported by, for example, 730 and 732 of Figure 7 and paragraphs [0095]-[0099] of the specification.); and

c) at least one storage device storing a computer executable code (This is supported by, for example, 720 of Figure 7 and paragraphs [0095]-[0099] of the specification.) which, when executed by the at least one processor, performs a method of

1) accepting, by a proxy, ad spot availability information for a pageview to be provided in response to a page request, the ad spot availability information accepted from a first party, wherein the first party is not the proxy (This is supported by, for example, 410, 420 and 450 of Figure 4, 500 of Figure 5, 610 of Figure 6, Figure 8A, and paragraphs [0025], [0026], [0030], [0054], [0055], [0079], [0084]-[0086], [0101] and [0102] of the specification.),

2) multicasting, by the proxy, ad spot requests for offers using the accepted ad spot availability information to at least two second parties, wherein the at least two second parties include at least two ad networks that are different from the first party and the proxy (This is supported by, for example, 450, 470a, 470b, 480a, 480b, 490a, 490b, and 495 of Figure 4, 500 of Figure 5, 620 of Figure 6, Figure 8B, and paragraphs [0052], [0053], [0090] and [0103] of the specification.),

3) receiving, by the proxy, offers (This is supported by, for example, 450 of Figure 4, 500

of Figure 5, 630 of Figure 6, Figure 8C, and paragraphs [0080], [0084] and [0104] of the specification.),

4) determining, by the proxy, at least one winning ad using the offers (This is supported by, for example, 450 and 460 of Figure 4, 510 of Figure 5, 640 of Figure 6, and paragraphs [0027], [0054], [0055], [0081], [0084], [0088] and [0105] of the specification.), and

5) providing, by the proxy, information concerning at least one of the at least one winning ad to the first party (This is supported by, for example, 450 of Figure 4, 500 of Figure 5, 650 of Figure 6, Figure 8D, and paragraphs [0082]-[0084], [0089] and [0106] of the specification.).

Similar to the method of claim 17, independent claim 50 concerns an apparatus comprising:

a) at least one processor (This is supported by, for example, 710 of Figure 7 and paragraphs [0095]-[0099] of the specification.);

b) an input device (This is supported by, for example, 730 and 732 of Figure 7 and paragraphs [0095]-[0099] of the specification.); and

c) at least one storage device storing a computer executable code (This is supported by, for example, 720 of Figure 7 and paragraphs [0095]-[0099] of the specification.) which, when executed by the at least one processor, performs a method of

1) sending, by a content provider, ad spot availability information for a pageview to be provided in response to a page request, to a proxy representing at least two of (i) a first ad network, (ii) a second ad network, (iii) a first ad agency, and (iv) a second ad agency, wherein the content provider is not the proxy (This is supported by, for example, 410, 420, 450, 470a, 470b, 480a, 480b and 495 of Figure 4, 500 of Figure 5, 610 of Figure 6, Figure 8A, and paragraphs [0025]-[0027], [0030], [0052]-[0057], [0080], [0081], [0084], [0090] and [0102] of the specification.),

2) receiving, by the content provider, information concerning at least one ad corresponding to the ad spot availability information from the proxy, wherein the information concerning the at least one ad originates from an advertiser, and wherein the advertiser is different from the proxy and the content provider (This is supported by, for example, 460 of Figure 4, 650 of Figure 6, Figure 8D, and paragraphs [0080]-[0084] of the specification.),

3) serving the at least one ad corresponding to the ad spot availability information on an ad spot (This is supported by, for example, paragraphs [0039] and [0040] of the specification), and

4) receiving payment related to the act of serving the at least one ad corresponding to the ad spot availability information on the ad

spot (This is supported by, for example, 530 of Figure 5 and paragraph [0063] of the specification.).

Similar to the method of claim 21, independent claim 54 concerns an apparatus comprising:

a) at least one processor (This is supported by, for example, 710 of Figure 7 and paragraphs [0095]-[0099] of the specification.);

b) an input device (This is supported by, for example, 730 and 732 of Figure 7 and paragraphs [0095]-[0099] of the specification.); and

c) at least one storage device storing a computer executable code (This is supported by, for example, 720 of Figure 7 and paragraphs [0095]-[0099] of the specification.) which, when executed by the at least one processor, performs a method of

1) accepting by a proxy, ad availability information from an advertiser, wherein the ad availability information is associated with an ad to be served, and wherein the advertiser is not the proxy (This is supported by, for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].),

2) multicasting, by the proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein the at least two content owners are different from the advertiser and the proxy (This is supported by,

for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].),

3) receiving, by the proxy, offers to place an ad of the advertiser on at least one ad spot of at least one pageview of each of the at least two content owners (This is supported by, for example, 450 of Figure 4, 500 of Figure 5 and paragraph [0091].),

4) determining, by the proxy, at least one winning ad spot using the offers (This is supported by, for example, paragraph [0091].), and

5) providing, by the proxy, information concerning at least one of the at least one winning ad spot to the advertiser (This is supported by, for example, paragraph [0091].).

VI. Grounds of Rejection to be Reviewed on Appeal

The issues presented for review are whether:

(1) (separately patentable and argued groups of) claims 1-5, 7-16, 34-38 and 40-49 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the Eldering patent in view of the Detering publication;

(2) claims 6 and 39 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the Eldering patent in view of the Detering publication and Official Notice;

(3) (separately patentable and argued groups of) claims 17-20 and 50-53 are properly rejected under 35 U.S.C. § 102(b) as being anticipated by the Angles patent; and

(4) (separately patentable and argued groups of) claims 21-33 and 54-66 are properly rejected under 35 U.S.C. § 102(e) as being anticipated by the Patel publication.

VII. Argument

The appellant respectfully requests that the Board reverse the final rejection of claims 1-66 in view of the following.

Rejection under 35 U.S.C. § 103

Claims 1-5, 7-16, 34-38 and 40-49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Eldering patent in view of the Detering publication.

Group I: Claims 1, 7-9, 34, and 40-42

Independent claim 1 is not rendered obvious by the Eldering patent and the Detering publication at least because the cited references, either individually or in combination, do not teach or make obvious (1) *accepting, by a proxy, ad spot availability information for a pageview to be provided in response to a page request, the ad spot availability information accepted from a first party, wherein the first party is not the proxy,* and (2) *multicasting, by the proxy, ad spot requests for offers using the accepted ad spot availability information to at least two second parties, wherein the at least two second parties include at least two ad networks that are different from the first party and the proxy,* in combination with other features of claim 1.

In maintaining the rejection of claim 1, the Examiner states:

The Applicant argues with respect to claims 1-16 and 34-49 that *the cable show* of Eldering is not a pageview and is not broadcast in response to a page request. The Examiner answers that Eldering teaches *a pageview* in response to a page request (see col 12, lines 9-32). Therefore, contrary to Applicant's argument, Eldering teaches Applicant's claimed limitation. The Applicant argues that in the device of Detering, since the information needed to generate bids is already stored, the device has no need to multicast requests for bids to a plurality of advertisers. The Examiner answers that *the Eldering reference was used to teach the multicasting limitation*. [Emphasis added.]

(Paper No. 20101018, page 2) Eldering discloses two (2) distinct and separate embodiments. One embodiment concerns television advertising slots provided by a cable television operator, while a separate embodiment concerns advertising space on a web page offered by a web server hosting the page. As the Examiner, in rejecting claim 1, has cited portions of Eldering relating to these two different embodiments, but has not provided any reasoning or rationale purporting to explain why one of skill in the art would have combined these two separate embodiments or how they could have even been combined, Appellant understands the Examiner to assert that each of these two embodiments separately anticipates claim 1. This assertion, however, is incorrect, because, as explained in detail below, claim 1 patentably distinguishes over each of these two embodiments.

A first embodiment described in the Eldering patent concerns a:

> *cable television operator* [who] announces an advertising opportunity which corresponds to *a*

> *commercial spot of a particular duration*, occurring
> during a particular program. [Emphasis added.]

(Column 11, lines 14-17 of the Eldering patent)

To the extent the Examiner is relying on the first
embodiment of Eldering, in which the advertising
opportunity announcement is sent by a cable television
operator (in combination with the box 170 of Detering as
the alleged proxy), to disclose the act of multicasting
ad spot availability information as claimed, then the
Examiner has not shown that the cable television
operator's announcement was for a *pageview to be provided
in response to a page request*, nor has the Examiner shown
that the ad spot requests for offers were multicast using
the accepted ad spot availability information to at least
two second parties, wherein the at least two second
parties include *at least two ad networks* that are
different from the first party and the proxy, as claimed.
Indeed, the Examiner concedes that, in Eldering, the
cable television operator's announcement is not "for a
pageview to be provided in response to a page request,"
as the cable television operator of Eldering does not
prove pages or respond to page requests. (Compare pages 7
and 8 with pages 13 and 14 of Paper No. 20100621.)

A second embodiment of the Eldering patent concerns a
server hosting a page, in which:

> a consumer can be accessing web sites and may be
> presented with *a web site which contains advertising
> opportunities*. The *server hosting the page* acts as
> content/opportunity provider 100. Upon accessing the
> web site the server hosting the page announces an

advertising opportunity to advertisers [Emphasis
                    added.].

(Column 12, lines 10-16 of the Eldering patent)

     Claim 1 also patentably distinguishes over this
embodiment of Eldering in combination with Detering.
Specifically, the Examiner has not shown that, in this
second embodiment, the ad spot requests for offers were
multicast using the accepted ad spot availability
information to at least two second parties, wherein the
at least two second parties include **at least two ad
networks** that are different from the first party and the
proxy, as claimed. Rather, in the second embodiment of
Eldering, any requests for offers are sent to
advertisers, and not to **ad networks**. Note that the claim
term "ad network" is expressly defined as "an entity
through which different advertisers (and often many
different advertisers) can purchase ad spots…."
(Paragraph [0008] of the specification of the present
application) Therefore, **advertisers**, as used in the
Eldering patent, are different from **ad networks**, as
claimed (and as expressly defined in the specification).

     Thus, independent claim 1 is not rendered obvious by
the cited references for at least the foregoing reasons.
Since claims 7-9 depend from claim 1, these claims are
not rendered obvious by the cited references as well.

     Independent apparatus claim 34 includes at least one
storage device storing a computer executable code which,
when executed by the at least one processor, performs a

method of (1) accepting, by a proxy, ad spot availability information for a page view to be provided in response to a page request, the ad spot availability information accepted from a first party, wherein the first party is not the proxy, (2) multicasting, by the proxy, ad spot requests for offers using the accepted ad spot availability information to at least two second parties, wherein the at least two second parties include at least two ad networks that are different from the first party and the proxy, (3) receiving, by the proxy, offers, (4) determining, by the proxy, at least one winning ad using the offers, and (5) providing, by the proxy, information concerning at least one of the at least one winning ad to the first party. Therefore, independent claim 34 is similarly not rendered obvious by the cited references. Since claims 40-42 depend from claim 34, these claims are not rendered obvious by the cited references as well.

Group II: Claims 2-4 and 35-37

First, since claims 2-4 directly or indirectly depend from claim 1 (and since claims 35-37 directly or indirectly depend from claim 34), these claims are not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to the claims of Group I.

Second, representative claim 2 of Group II is further patentable because it recites that the method of claim 1 further comprises *recording, by the proxy, first party payment information.*

In maintaining the rejection of claim 2, the Examiner contends that column 3, lines 55-65 of the Eldering patent teaches the foregoing feature. (See Paper No. 20100621, page 9.) Thus, the Examiner contends that "[t]he **content/opportunity provider** 160 [which] can charge advertiser 144 ... [Emphasis added.]" corresponds to the claimed proxy. (Column 3, lines 57 and 58 of the Eldering patent) However, the Examiner applies the cited references in a manner inconsistent with how they were applied to reject claims 1 and 34. In particular, the Examiner's contention that the Eldering's content/opportunity provider 160 corresponds to the claimed **proxy**, conflicts with the Examiner's earlier contention, used to reject the claims of Group I, that *the box 170* of the Detering publication (or a modified cable operator or Web server of the Eldering patent) corresponds to the claimed **proxy**. (Compare pages 9 and 14 of Paper No. 20100621.)

Thus, dependent claim 2 (and similarly dependent claim 35) is not rendered obvious by the cited references for this additional reason. Dependent claims 3 and 4 depend from claim 2 while dependent claims 36 and 37 depend from claim 35. Thus, these claims are similarly not rendered obvious by the cited references.

Group III: Claims 5 and 38

First, since claim 5 indirectly depends from claim 1 and incorporates the features of intervening claim 2,

dependent claim 5 (and similarly claim 38) is not rendered obvious by the Eldering patent and the Detering publication for at least the reasons discussed above with respect to claims of Groups I and II.

Second, claim 5 (and similarly, claim 38) is further patentable because it recites that the method further includes **paying, by the proxy, the first party** using the first party payment information and a previously agreed upon guarantee. In maintaining the rejection of claim 5, the Examiner contends that column 3, lines 55-65 of the Eldering patent teaches the foregoing combination. (See Paper No. 20100621, page 9.) The cited part in the Eldering patent concerns how "a pricing policy can be defined" to "charge advertiser 144." (Column 3, lines 56 and 57 of the Eldering patent) The appellant respectfully disagrees because ***charging advertisers,*** using a pricing policy, **by** a content/opportunity provider 160 of the Eldering patent (allegedly teaching the claimed **proxy**) is different from **paying** (not charging), **by the proxy, the first party** (from which, the ad spot availability information for a pageview was accepted, as recited in claim 1). (See, e.g., paragraphs [0062]-[0066] of the specification.)

Thus, dependent claim 5 (and similarly, dependent claim 38) is not rendered obvious by the cited references for this additional reason.

Group IV: Claims 10 and 43

First, since claim 10 indirectly depends from claim 1 and incorporates the features of intervening claim 9, claim 10 (and similarly claim 43) is not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to the claims of Group I.

In addition, claim 10 (and similarly, claim 43) is further patentable because it recites that the at least some of the **ad spot requests for offers** (multicast to at least two second parties, as recited in claim 1) **include at least some of the offer rules** (originally included with the ad spot availability information accepted from the first party, as recited in claims 1 and 9).

In maintaining the rejection of claim 10, the Examiner contends that column 11, lines 15-25 of the Eldering patent teaches the foregoing combination of features. (See Paper No. 20100621, page 10.) The citation states, in pertinent part:

> As an example, the cable television operator
> may announce, via electronic means, the availability of
> a 30 second spot during a prime time sitcom.

(Column 11, lines 18-20 of the Eldering patent) Thus, the Examiner contends that the 30 second spot during a prime time sitcom, announced by a cable television operator, in the Eldering patent discloses the claimed offer rules as recited in combination with the other claim features. The appellant respectfully disagrees.

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First, if the proxy is a cable television operator in these claims, which depend from the claims of Group I, the cable television operator does not accept *ad spot availability information for a pageview to be provided in response to a page request.*

Second, the Eldering patent does not disclose that the 30 second spot is accepted and multicast as a second spot request for offers (originally accepted from another party).

Thus, dependent claim 10 (and similarly, dependent claim 43) is not rendered obvious by the cited references for these additional reasons.

Group V: Claims 11 and 44

First, since claim 11 indirectly depends from claim 1 and incorporates the features of intervening claim 9, this claim (and similarly claim 44) is not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to the claims of Group I.

Second, claim 11 (and similarly, claim 44) is further patentable because it recites that *the ad spot requests for offers* (multicast to at least two second parties, as recited in claim 1) *include none of the offer rules* (originally included with the ad spot availability

information accepted from the first party, as recited in claims 1 and 9).

In maintaining the rejection of claim 11, the Examiner contends that column 9, lines 25-30 of the Eldering patent teaches the foregoing combination of features. (See Paper No. 20100621, page 10.) This citation states:

> As illustrated by consumer based pricing 960 in FIG. 6, the consumer may charge to view and [sic] advertisement, but can charge less for advertisements which are highly correlated with their profile, and thus are likely to be of more interest.

(Column 9, lines 25-30 of the Eldering patent) The cited teaching of the consumer charging to view advertisement (in the Eldering patent) does not teach, nor does it make obvious, that **the ad spot requests for offers** (multicast by the proxy to at least two second parties, as recited in claim 1) **include none of the offer rules** (originally included with the ad spot availability information accepted from the first party, as recited in claims 1 and 9), as recited in claim 11.

Thus, dependent claim 11 (and similarly, dependent claim 44) is not rendered obvious by the cited references for this additional reason.

Group VI: Claims 12 and 45

First, since claim 12 indirectly depends from claim 1 and incorporates the features of intervening claim 9,

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this claim (and similarly claim 45) is not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to the claims of Group I.

In addition, claim 12 (and similarly, claim 45) is further patentable because it recites that the **act of determining at least one winning ad** (by the proxy, using the offers received from the at least two second parties, as recited in claim 1) **enforces strict offer rule compliance** (of the original offer rule included with the ad spot availability information accepted from the first party, as recited in claim 9).

In maintaining the rejection of claim 12, the Examiner contends that column 11, lines 55-62 of the Eldering patent teaches the foregoing combination. (See Paper No. 20100621, page 10.) This citation states:

> In the previously discussed application for cable television the cable television operator will prefer to solicit bids from multiple advertisers, and can repeat the bid process in order to obtain the highest bid possible for the commercial spot.

(Column 11, lines 58-62 of the Eldering patent) Thus, the Examiner contends that obtaining the highest bid according to the cable television operator's preference in the Eldering patent teaches enforcing strict offer rule compliance by the proxy, as recited in claim 12.

However, obtaining the highest bid according to a cable television operator's preference is different from

the proxy enforcing strict offer rule compliance (of the original offer rules accepted from the first party, as recited in claim 9), as recited in claim 12.

Thus, dependent claim 12 (and similarly, dependent claim 45) is not rendered obvious by the cited references for this additional reason.

Group VII: Claims 13 and 46

First, since claim 13 indirectly depends from claim 1 and incorporates the features of intervening claim 9, claim 13 (and similarly claim 46) is not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to the claims of Group I.

Second, claim 13 (and similarly, claim 46) is further patentable because it recites that *determining at least one winning ad converts an offer that is not in compliance with an offer rule to a converted offer that is compliant with the offer rule.*

In maintaining the rejection of claim 13, the Examiner concedes that the Eldering patent fails to disclose the foregoing features. However, the Examiner relies on the Detering publication and states:

> However, Detering teaches a system where offers or
> bids are dynamically changed in order to comply with
> an offer rule (see paragraph 26-28). Therefore, it would
> have been obvious to a person of ordinary skill in the
> art at the time the application was made, to know that

Eldering cable operators would adjust the bid places by advertisers in order that said bids comply with an offer rule, as Detering teaches that it is old and well known in the promotion art to adjust offers in order to comply to an offer rule.

(Paper No. 20100621, page 11) The cited paragraphs of the Detering publication state:

[0026]   Unit 70 can also compute the corresponding bids and determine a reasonable expectation on that campaign's success and costs based on past experiences with reaching those users and the other bids that are competing for the users' attention. As a further refinement, advertisers could condition their bids in regard to the type of content being requested by a user and being presented to him. Also, unit 70 could **compute a discount to each bid** if the advertising content seems to be likely to be undesired by the majority of users. While this bid discounting reduces the likelihood of the bids to outbid other bids, the advertiser still would pay an undiscounted price per contact:

[0027]   For example, if an advertiser bids $1 for one user and the system would discount that bid by 50%, this bid would only outbid those bids that are at least as small as 50 cents. Assume that the highest losing bid (in a Vickrey-type auction scheme) is 30 cents; the advertiser would outbid this bid but pay 60 cents to reflect the discounted value of his bid. Alternatively, advertisers with undesired messages could be required to pay a premium surcharge of 100% on their prices, which would make them reduce their bids themselves. On the other hand, advertisers with particularly desirable messages could receive preferential treatment through a corresponding treatment.

[0028]   The flowchart of FIG. 3 illustrates, in detail, the steps leading to the selection and placement of a particular advertising message into a document being presented to a user. In step 301, user 11 requests a document from unit 71. Step 302/408 shows that step 301 can also be replaced through a process explained in

FIG. 4, which leads through connector A to step 303 just as step 301 does. Step 303 determines whether the requested document's content is of any particular relevance to the bids in the bid account 2 of set of data 71:11 and temporarily adjusts the bids accordingly. Subsequently, the highest bid is determined in step 304, and step 305 places the advertising message of the winning bid into the document to be presented to user 11. From this, three independent steps follow as a result of the successful bid: (1) Step 306 updates the bid account 2 in set of data 71:11, for example, changing the value or deleting altogether the bid that has won. (2) Step 307 ensures that the winning bidder will be charged an amount corresponding to the applied auction rules (in this case, the winning bidder pays a price equal to the highest losing bid). (3) Step 308 records observable reactions of user 11 on the advertising message and updates the demographics and interests subset of data 1 in set of data 71:11 accordingly.

(Paragraphs [0026]-[0028] of the Detering publication)

Thus, the Examiner apparently contends that *discounting a bid* based on the advertising content or giving preferential treatment based on the desired/undesired messages (in the Detering publication) disclose the foregoing features of claim 13. The appellant respectfully disagrees because this does not teach that the act of determining *converts an offer that is not in compliance with an offer rule* (originally included with the ad spot availability information accepted from the first party, as recited in claim 9) *to a converted offer that is compliant with the offer rule*, as recited in claim 13. Discounting an *already compliant* bid does not teach, nor does it make obvious, converting an offer that is not in compliance with an offer rule, to an offer that is compliant with the offer rule.

Thus, dependent claim 13 (and similarly, dependent claim 46) is not rendered obvious by the cited references for this additional reason.

Group VIII: Claims 14-16 and 47-49

First, since claims 14-16 indirectly depend from claim 1 and incorporate the features of intervening claims 9 and 13, dependent claims 14-16 (and similarly claims 47-49) are not rendered obvious by the Eldering patent and Detering publication for at least the reasons discussed above with respect to claims of Groups I and VII.

Second, representative claim 14 of Group VIII is further patentable because it recites that the act of **determining converts the offer uses estimated ad performance information.**

In maintaining the rejection of claim 14, the Examiner contends that paragraphs [0026]-[0028] of the Detering disclosure (reproduced under Group VII) wherein "the advertising content seems to be likely to be undesired" teach that "offers or bids are dynamically changed in order to estimate ad performance information." (Paper No. 20100621, page 11) The appellant respectfully disagrees because the Examiner mischaracterizes what is claimed. Specifically, **determining at least one winning ad that converts the offer <u>uses</u> estimated ad performance information,** as recited in claim 14, is different from

estimating ad performance information (mischaracterized by the Examiner as what is being claimed).

Thus, dependent claim 14 (and similarly, dependent claims 15, 16 and 47-49) is not rendered obvious by the cited references for this additional reason.

Group IX: Claims 6 and 39

Claims 6 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Eldering patent in view of Official Notice.

Since claim 6 indirectly depends from claim 1 and incorporates the features of intervening claim 2, this claim (and similarly claim 39) is not rendered obvious by the Eldering patent in view of the Detering publication and Official Notice for at least the reasons discussed above with respect to claims of Groups I and II, because the alleged teachings of the Official Notice do not address the deficiencies of the Eldering patent and the Detering publication discussed above, regardless of the presence or absence of an obvious reason to modify the cited reference as proposed.

Rejections under 35 U.S.C. § 102

Claims 17-20 and 50-53 stand rejected under 35 U.S.C. § 102(b) as being anticipated the Angles patent. The appellant respectfully requests that the Board

reconsider and reverse this ground of rejection in view
of the following.

Group X: Claims 17, 18, 20, 50, 51 and 53

Independent claim 17 (and similarly, independent
claim 50) is not anticipated by the Angles patent at
least because the Angles patent does not teach a
combination of (1) **sending,** by a content provider
including at least one computer, ad spot availability
information for a pageview to be provided in response to
a page request, **to a proxy representing at least two of
(i) a first ad network, (ii) a second ad network, (iii) a
first ad agency, and (iv) a second ad agency,** wherein the
content provider is not the proxy, and (2) receiving, by
the content provider, information concerning at least one
ad corresponding to the ad spot availability information
from the proxy, wherein the information concerning **the at
least one ad originates from an advertiser, and wherein
the advertiser is different from the proxy and the
content provider,** in combination with other features of
claim 17.

In maintaining the rejection of claim 17, the
Examiner states:

> The Applicant argues that Angles does not anticipate
> claims 17-20 and 50-3 [sic] because according to the
> Applicant, Angles does not teach at least two of a first
> ad network, second ad network, first ad agency, and a
> second ad agency and the at least one ad originates
> from an advertiser, wherein the advertiser is different
> from the proxy and the content provider. The Examiner
> answers that Angles teaches that the advertisement

provider (see figure 4, item 18) functions as a proxy
representing *a plurality of advertisers (i.e. ad agencies)*
and where at least one ad originates from an advertiser
that pays for advertising directed at specific
demographic target groups and where said advertiser is
billed based on actual delivery of the ad to pertinent
consumers (see col 4, lines 1-5) An ad agency
represents an advertiser and therefore, can be construed
to be an advertiser. Therefore, contrary to Applicant's
argument, Angles anticipates Applicant's claimed
invention. [Emphasis added.].

(Paper No. 20101018, page 2) Thus, the Examiner contends
that a plurality of **advertisers** in the Angles patent
teaches the first and second **ad agencies** as claimed. The
appellant respectfully disagrees since the words of a
claim, given a plain meaning, must not be inconsistent
with the specification. (See M.P.E.P. §§ 608.01(o) and
2111.01.)

The term "ad agency" is listed separately from the
term "advertiser" throughout the specification. This
usage is consistent with the well accepted understanding
that an "ad agency" is different from an "advertiser."
For example, Wikipedia defines an "ad agency" as follows:

An advertising agency or ad agency is a service
business dedicated to creating, planning and handling
advertising (and sometimes other forms of promotion)
for its clients. An ad agency is independent from the
client and provides an outside point of view to the effort
of selling the client's products or services.

(Exhibit A, filed with the Request for Reconsideration
October 1, 2010) Thus, independent claim 17 (and
similarly, independent claim 50) is not anticipated by
the Angles patent at least because an "advertiser" is

different from an "ad agency." (Note also, that an "ad network," which is a term expressly defined in the specification, as already discussed above with reference of the claims of Group I, is different from an advertiser.)

Since claims 18 and 20 depend from claim 17 and since claims 51 and 53 depend from claim 50, these claims are similarly not anticipated by the Angles patent.

Group XI: Claims 19 and 52

First, since claim 19 indirectly depends from claim 17, claim 19 (and similarly, claim 52) is not anticipated by the Angles patent for at least the reasons discussed above with respect to the claims of Group X.

Second, claim 19 (and similarly, claim 52) is further patentable because it recites that *the previously agreed upon guarantee* (used to determine the payment received by the content provider, as recited in claims 17 and 18) *includes a profit percentage*.

In maintaining the rejection of claim 19, the Examiner contends that column 16, lines 15-40 of the Angles patent discloses the foregoing combination. (See Paper No. 20100621, pages 3 and 4.) The citation states:

> In addition, the ability to monitor the number of advertisements displayed by a particular content provider computer 14 provides a number of advantages. For example, the advertisement provider can pay the content provider based on the volume of advertisements

actually displayed by the content provider computer 14. This frees the content providers from having to generate advertising data, from having to individually contact advertisers, from having to negotiate advertising payment fees, and from having to maintain an advertising administrative staff.

Furthermore, because the preferred embodiment also is capable of storing a consumer's Internet provider account number in the registration database 68, the preferred embodiment can monitor the number of advertisements viewed by consumers associated with a particular Internet provider 34. Accordingly, the invention can pay an Internet provider 34 based on the number of advertisements viewed by its consumers. The Internet providers 34 can then use this advertising revenue to reduce consumer access fees. Alternatively, the preferred embodiment can pay a consumer for viewing advertisements by crediting a consumer's Internet provider account.

In addition, because the preferred embodiment also is capable of storing a consumer's digital cash account, the preferred embodiment can pay the consumer with digital cash each time the consumer views an advertisement. This allows the consumer to obtain digital cash which the consumer can use to purchase other goods and services offered for sale on the Internet 33.

(Column 16, lines 15-40 of the Angles patent) Thus, the Examiner contends that the claimed payment received by the content provider is taught by one of the three types of payment recipients: (1) the content provider, (2) the Internet provider, which in turn reduces the consumer access fees, or (3) the consumer being paid each time the consumer views an advertisement (in the Angles patent).

However, assuming that the Examiner contends that the content provider receiving payment (column 16, line 19 of the Angles patent) teaches the claimed content

provider, the Examiner does not demonstrate how this part discloses that the payment includes *a profit percentage*, as recited in claim 19. (On the other hand, if the Examiner contends that the Internet provider or the consumer correspond to the claimed content provider, the appellant respectfully notes that the Examiner does not articulate how these entities function in the manner corresponding to that of claimed content provider.)

Thus, dependent claim 19 (and similarly, dependent claim 52) is not anticipated by the Angles patent for this additional reason.

Claims 21-33 and 54-66 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Patel publication. The appellant respectfully requests that the Board reconsider and reverse this ground of rejection in view of the following.

Group XII: Claims 21-25, 26, 27, 30-33, 54-58, 59, 60 and 63-66

Independent claim 21 is not anticipated by the Patel publication at least because the Patel publication does not teach (1) accepting, by a proxy including at least one computer, ad availability information from an advertiser, wherein the ad availability information is associated with an ad to be served, and wherein the advertiser is not the proxy, and (2) *multicasting, by the*

proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein the at least two content owners are different from the advertiser and the proxy, in combination with other features of claim 21.

In maintaining the rejection of claim 21, the Examiner states:

> The Applicant argues with respect to claim 21 that Patel does not teach Applicant's claimed invention because the exchange system of Patel does not multicast advertiser offers to publishers. The Examiner answers that Patel teaches that advertisers are able to instantly *submit for viewing by all publishers* any number of *offers on the exchange system* (see paragraph 51) Therefore, contrary to Applicant's argument, Patel teaches multicasting advertisers offers to publishers. [Emphasis added.]

(Paper No. 20101018, page 2) The Patel publication discloses a "many to many" **exchange** system for use by publishers and advertisers. (See paragraph [0045] of the Patel publication.) Cited paragraph [0051] of the Patel publication states, in pertinent part:

> As shown below, through the system advertisers are able to instantly *submit for viewing by all publishers* any number of *offers on the exchange*. Advertisers may also instantly *remove offers from the exchange*, even through such offers may have already been accepted by and served on publisher sites. [Emphasis added.]

(Paragraph [0051] of the Patel publication, see also, paragraph [0038] of the Patel publication.) The appellant respectfully disagrees.

A system that allows an advertiser to **submit** or **remove** offers does not teach **multicasting**, by the proxy, **requests for offers** using the accepted ad availability information associated with the ad to be served **to at least two content owners** as claimed.

In addition, the Patel publication states:

> [0131] 6. Publishers can specify how they want to handle the advertisers' offers that meet their filtering criteria 418. They can specify trading rules to automate actions that they want performed when certain criteria are met. For example the publisher can:
>
> [0132] 6.1. Automatically 415 accept all offers that meet their criteria. For instance, if the publisher has been sufficiently satisfied with an advertiser in the past, *the publisher can instruct the system to accept all future offers from that advertiser that meet specific restrictions. In this way offers can be automatically accepted in an unattended mode.*
>
> [0133] 6.2. *Manually 417 review the offers that meet their criteria.* As the creative and product offering are difficult to characterize, this option allows the publisher to obtain more information about an offer before deciding whether to accept or reject it. [Emphasis added.]

(Paragraphs [131]-[133] of the Patel publication) However, manually reviewing offers submitted to an exchange or automatically accepting offers submitted to an exchange does not teach multicasting by a proxy, requests for offers using accepted ad availability

information associated with an ad to be served to at least two content owners (who are different from the advertiser and the proxy) as claimed.

Thus, independent claim 21 is not anticipated by the Patel publication. Since claims 22-27 and 30-33 directly or indirectly depend from claim 21, these claims are similarly not anticipated by the Patel publication.

Independent claim 54 recites apparatus including at least one storage device storing a computer executable code which, when executed by the at least one processor, performs a method of (1) accepting by a proxy, ad availability information from an advertiser, wherein the ad availability information is associated with an ad to be served, and wherein the advertiser is not the proxy, (2) multicasting, by the proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein the at least two content owners are different from the advertiser and the proxy, (3) receiving, by the proxy, offers to place an ad of the advertiser on at least one ad spot of at least one page view of each of the at least two content owners, (4) determining, by the proxy, at least one winning ad spot using the offers, and (5) providing, by the proxy, information concerning at least one of the at least one winning ad spot to the advertiser. Therefore, independent claim 54 is similarly not anticipated by the Patel publication. Since claims 55-60 and 63-66 directly or indirectly depend from claim 54, these claims are not anticipated by the Patel publication as well.

Group XIII: Claims 28 and 61

First, since claim 28 indirectly depends from claim
21, dependent claim 28 (and similarly, dependent claim
61) is not anticipated by the Patel publication for at
least the reasons discussed above with respect to the
claims of Group XII.

Second, claim 28 (and similarly, claim 61) is
further patentable because it recites that the requests
for offers (multicast by the proxy to at least two
content owners, as recited in claim 21) include **none of
the offer rules** (originally included with the ad
availability information accepted from, and required by,
the advertiser, as recited in claims 21 and 26).

In maintaining the rejection of claim 28, the
Examiner contends that paragraph [0116] of the Patel
publication discloses the foregoing combination. (See
Paper No. 20100621, page 6.) The cited paragraph states:

> 7. Advertisers can rapidly achieve the optimal
> market price for advertising any given product through
> the exchange. For example, advertisers can start with
> elevated offers to compensate publishers, and then
> systematically reduce these amounts incrementally until
> the precise intersection between supply and demand
> (i.e. market price at any given point in time) is
> achieved.

(Paragraph [0116] of the Patel publication)

The Examiner has not explained how this disclosure
teaches the foregoing feature, as recited in claim 28.

Clearly, the Patel publication does <u>not</u> disclose an advertiser submitting any offer rule to the exchange, and does not disclose the exchange multicasting requests for offers with **none of the** offer rules.

Thus, dependent claim 28 (and similarly, dependent claim 61) is not anticipated by the Patel publication for this additional reason.

Group XIV: Claims 29 and 62

First, since claim 29 indirectly depends from claim 21, dependent claim 29 (and similarly, claim 62) is not anticipated by the Patel publication for at least the reasons discussed above with respect to the claims of Group XII.

Second, claim 29 (and similarly, claim 62) is patentable because it further recites that the act of determining at least one winning ad spot (using the offers received by the proxy to place an ad of the advertiser on at least one ad spot of at least one pageview of each of the at least two content owners, as recited in claim 21) enforces strict offer rule compliance.

In maintaining the rejection of claim 29, the Examiner contends that paragraph [0134] of the Patel publication discloses the foregoing combination. (See Paper No. 20100621, page 6.) The cited paragraph states:

[0134] 7. Accept an offer with conditions 418. For instance, *the publisher may indicate that the offer is accepted unless the advertiser changes the creative*, product offer, or incentives. If the advertiser should change one of these parameters unacceptably, the publisher will automatically stop accepting the offer. In this way offers can be automatically rejected in an unattended mode. [Emphasis added.]

(Paragraph [0134] of the Patel publication) However, the exchange accepting an offer with **conditions from a publisher** (in the Patel publication) is different from the claimed proxy enforcing strict offer rule compliance (of the original **offer rules required by the advertiser**, as recited in claim 26), as recited in claim 29.

Thus, dependent claim 29 (and similarly, dependent claim 62) is not anticipated by the Patel publication for this additional reason.
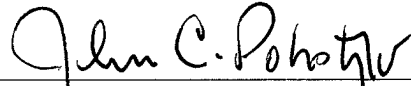
VIII.   Conclusion

In view of the foregoing, the appellant respectfully submits that the pending claims are in condition for allowance. Accordingly, the appellant requests that the Board reverse each of the outstanding grounds of rejection.

Any arguments made in this Appeal Brief pertain **only** to the specific aspects of the invention **claimed**. Any arguments are made **without prejudice to, or disclaimer of,** the appellant's right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Since the appellant's remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the appellant's silence as to assertions by the Examiner in the Office Action and/or to certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or modified, whether dependent claims are separately patentable, etc.) is not a concession by the appellant that such assertions and/or implications are accurate, and that all requirements for an objection and/or a rejection have been met. Thus, the appellant reserves the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

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IX. Claims appendix

An appendix containing a copy of the claims on appeal is filed herewith.

1 Claim 1: A computer-implemented method comprising:
2   a) accepting, by a proxy including at least one
3   computer, ad spot availability information for a
4   pageview to be provided in response to a page
5   request, the ad spot availability information
6   accepted from a first party, wherein the first party
7   is not the proxy;
8   b) multicasting, by the proxy, ad spot requests for
9   offers using the accepted ad spot availability
10   information to at least two second parties, wherein
11   the at least two second parties include at least two
12   ad networks that are different from the first party
13   and the proxy;
14   c) receiving, by the proxy, offers;
15   d) determining, by the proxy, at least one winning
16   ad using the offers; and
17   e) providing, by the proxy, information concerning
18   at least one of the at least one winning ad to the
19   first party.

1 Claim 2: The computer-implemented method of claim 1,
2 further comprising:
3   f) recording, by the proxy, first party payment
4   information.

1 Claim 3: The computer-implemented method of claim 2,
2 wherein the first party is a Website owner.

1 Claim 4: The computer-implemented method of claim 2,
2 further comprising:
3   g) paying, by the proxy, the first party using the
4   first party payment information.

1 Claim 5: The computer-implemented method of claim 2,
2 further comprising:
3   g) paying, by the proxy, the first party using the
4   first party payment information and a previously
5   agreed upon guarantee.

1 Claim 6: The computer-implemented method of claim 2,
2 further comprising:
3   g) paying, by the proxy, the first party using the
4   first party payment information and a previously
5   agreed upon guarantee, wherein the previously agreed
6   upon guarantee includes a profit percentage.

1 Claim 7: The computer-implemented method of claim 1,
2 further comprising:
3   f) recording, by the proxy, second party billing
4   information.

1 Claim 8: The computer-implemented method of claim 1,
2 wherein the act of multicasting ad spot requests for
3 offers includes sending an ad spot request for offer to
4 at least two of (i) a first ad network, (ii) a second ad
5 network, (iii) a first ad agency, and (iv) a second ad
6 agency.

1 Claim 9:   The computer-implemented method of claim 1,
2 wherein the ad spot availability information includes
3 offer rules.

1 Claim 10:   The computer-implemented method of claim 9,
2 wherein at least some of the ad spot requests for offers
3 include at least some of the offer rules.

1 Claim 11:   The computer-implemented method of claim 9,
2 wherein the ad spot requests for offers include none of
3 the offer rules.

1 Claim 12:   The computer-implemented method of claim 9,
2 wherein the act of determining at least one winning ad
3 enforces strict offer rule compliance.

1 Claim 13:   The computer-implemented method of claim 9,
2 wherein the act of determining at least one winning ad
3 converts an offer that is not in compliance with an offer
4 rule to a converted offer that is compliant with the
5 offer rule.

1 Claim 14:   The computer-implemented method of claim 13,
2 wherein the act of determining at least one winning ad
3 that converts the offer uses estimated ad performance
4 information.

1 Claim 15:   The computer-implemented method of claim 13,
2 wherein the act of determining at least one winning ad
3 that converts the offer uses estimated ad selection rate
4 information.

1 Claim 16: The computer-implemented method of claim 13,
2 wherein the act of determining at least one winning ad
3 that converts the offer uses estimated ad conversion rate
4 information.

1 Claim 17: A computer-implemented method comprising:
2   a) sending, by a content provider including at
3   least one computer, ad spot availability information
4   for a pageview to be provided in response to a page
5   request, to a proxy representing at least two of (i)
6   a first ad network, (ii) a second ad network, (iii)
7   a first ad agency, and (iv) a second ad agency,
8   wherein the content provider is not the proxy;
9   b) receiving, by the content provider, information
10   concerning at least one ad corresponding to the ad
11   spot availability information from the proxy,
12   wherein the information concerning the at least one
13   ad originates from an advertiser, and wherein the
14   advertiser is different from the proxy and the
15   content provider;
16   c) serving, by the content provider, the at least
17   one ad corresponding to the ad spot availability
18   information on an ad spot; and
19   d) receiving, by the content provider, payment
20   related to the act of serving the at least one ad
21   corresponding to the ad spot availability
22   information on the ad spot.

1 Claim 18: The computer-implemented method of claim 17,
2 wherein the payment is determined using a previously
3 agreed upon guarantee from the proxy.

1 Claim 19: The computer-implemented method of claim 18,
2 wherein the previously agreed upon guarantee includes a
3 profit percentage.

1 Claim 20: The computer-implemented method of claim 17,
2 wherein the ad spot availability information includes
3 offer rules.

1 Claim 21: A computer-implemented method comprising:
2   a) accepting, by a proxy including at least one
3   computer, ad availability information from an
4   advertiser, wherein the ad availability information
5   is associated with an ad to be served, and wherein
6   the advertiser is not the proxy;
7   b) multicasting, by the proxy, requests for offers
8   using the accepted ad availability information
9   associated with the ad to be served to at least two
10   content owners, wherein the at least two content
11   owners are different from the advertiser and the
12   proxy;
13   c) receiving, by the proxy, offers to place an ad
14   of the advertiser on at least one ad spot of at
15   least one pageview of each of the at least two
16   content owners;
17   d) determining, by the proxy, at least one winning
18   ad spot using the offers; and
19   e) providing, by the proxy, information concerning
20   at least one of the at least one winning ad spot to
21   the advertiser.

1 Claim 22: The computer-implemented method of claim 21,
2 further comprising:

3　　　f)　recording, by the proxy, advertiser billing

4　　　information associated with the ad availability

5　　　information.

1　Claim 23:　The computer-implemented method of claim 22,

2　further comprising:

3　　　g)　billing, by the proxy, the advertiser associated

4　　　with the ad availability information using the

5　　　advertiser billing information.

1　Claim 24:　The computer-implemented method of claim 22,

2　further comprising:

3　　　g)　billing, by the proxy, the advertiser associated

4　　　with the ad availability information using the

5　　　advertiser billing information and a previously

6　　　agreed upon guarantee.

1　Claim 25:　The computer-implemented method of claim 22,

2　further comprising:

3　　　g)　billing, by the proxy, the advertiser associated

4　　　with the ad availability information using the

5　　　advertiser billing information and a previously

6　　　agreed upon guarantee, wherein the previously agreed

7　　　upon guarantee includes a cost percentage.

1　Claim 26:　The computer-implemented method of claim 21,

2　wherein the ad availability information includes offer

3　rules required by the advertiser associated with the ad

4　availability information.

Claim 27: The computer-implemented method of claim 26, wherein at least some of the requests for offers include at least some of the offer rules.

Claim 28: The computer-implemented method of claim 26, wherein the requests for offers include none of the offer rules.

Claim 29: The computer-implemented method of claim 26, wherein the act of determining at least one winning ad spot enforces strict offer rule compliance.

Claim 30: The computer-implemented method of claim 26, wherein the act of determining at least one winning ad spot converts an offer that is not in compliance with an offer rule to a converted offer that is compliant with the offer rule.

Claim 31: The computer-implemented method of claim 30, wherein the act of converting uses estimated ad performance information.

Claim 32: The computer-implemented method of claim 30, wherein the act of converting uses estimated ad selection rate information.

Claim 33: The computer-implemented method of claim 30, wherein the act of converting uses estimated ad conversion rate information.

Claim 34: Apparatus comprising:
    a) at least one processor;

3   b)   an input device; and

4   c)   at least one storage device storing a computer

5   executable code which, when executed by the at least

6   one processor, performs a method of

7   1)   accepting, by a proxy, ad spot availability

8   information for a pageview to be provided in

9   response to a page request, the ad spot

10   availability information accepted from a first

11   party, wherein the first party is not the

12   proxy,

13   2)   multicasting, by the proxy, ad spot

14   requests for offers using the accepted ad spot

15   availability information to at least two second

16   parties, wherein the at least two second

17   parties include at least two ad networks that

18   are different from the first party and the

19   proxy,

20   3)   receiving, by the proxy, offers,

21   4)   determining, by the proxy, at least one

22   winning ad using the offers, and

23   5)   providing, by the proxy, information

24   concerning at least one of the at least one

25   winning ad to the first party.

1   Claim 35:   The apparatus of claim 34 further comprising:

2   6)   recording, by the proxy, first party

3   payment information.

1   Claim 36:   The apparatus of claim 35, wherein the first

2   party is a Website owner.

```
1   Claim 37:  The apparatus of claim 35, further comprising:
2               7)  paying, by the proxy,  the first party
3               using the first party payment information.


1   Claim 38:  The apparatus of claim 35, further comprising:
2               7)  paying, by the proxy,  the first party
3               using the first party payment information and a
4               previously agreed upon guarantee.


1   Claim 39:  The apparatus of claim 35, further comprising:
2               7)  paying, by the proxy,  the first party
3               using the first party payment information and a
4               previously agreed upon guarantee, wherein the
5               previously agreed upon guarantee includes a
6               profit percentage.


1   Claim 40:  The apparatus of claim 34, further comprising:
2               6)  recording, by the proxy,  second party
3               billing information.


1   Claim 41:  The apparatus of claim 34, wherein the act of
2   multicasting ad spot requests for offers includes sending
3   an ad spot request for offer to at least two of (i) a
4   first ad network, (ii) a second ad network, (iii) a first
5   ad agency, and (iv) a second ad agency.


1   Claim 42:  The apparatus of claim 34, wherein the ad spot
2   availability information includes offer rules.


1   Claim 43:  The apparatus of claim 42, wherein at least
2   some of the ad spot requests for offers include at least
3   some of the offer rules.
```

1 Claim 44: The apparatus of claim 42, wherein the ad spot
2 requests for offers include none of the offer rules.

1 Claim 45: The apparatus of claim 42, wherein the act of
2 determining at least one winning ad enforces strict offer
3 rule compliance.

1 Claim 46: The apparatus of claim 42, wherein the act of
2 determining at least one winning ad converts an offer
3 that is not in compliance with an offer rule to a
4 converted offer that is compliant with the offer rule.

1 Claim 47: The apparatus of claim 46, wherein the act of
2 converting uses estimated ad performance information.

1 Claim 48: The apparatus of claim 46, wherein the act of
2 converting uses estimated ad selection rate information.

1 Claim 49: The apparatus of claim 46, wherein the act of
2 converting uses estimated ad conversion rate information.

1 Claim 50: Apparatus comprising:
2   a) at least one processor;
3   b) an input device; and
4   c) at least one storage device storing a computer
5   executable code which, when executed by the at least
6   one processor, performs a method of

7   1) sending, by a content provider, ad spot
8   availability information for a pageview to be
9   provided in response to a page request, to a
10   proxy representing at least two of (i) a first

11   ad network, (ii) a second ad network, (iii) a

12   first ad agency, and (iv) a second ad agency,

13   wherein the content provider is not the proxy,

14   2)   receiving, by the content provider,

15   information concerning at least one ad

16   corresponding to the ad spot availability

17   information from the proxy, wherein the

18   information concerning the at least one ad

19   originates from an advertiser, and wherein the

20   advertiser is different from the proxy and the

21   content provider,

22   3)   serving the at least one ad corresponding

23   to the ad spot availability information on an

24   ad spot, and

25   4)   receiving payment related to the act of

26   serving the at least one ad corresponding to

27   the ad spot availability information on the ad

28   spot.

1 Claim 51: The apparatus of claim 50, wherein the payment

2 is determined using a previously agreed upon guarantee

3 from the proxy.

1 Claim 52: The apparatus of claim 51, wherein the

2 previously agreed upon guarantee includes a profit

3 percentage.

1 Claim 53: The apparatus of claim 50, wherein the ad spot

2 availability information includes offer rules.

1 Claim 54: Apparatus comprising:

2   a)   at least one processor;

3 b) an input device; and

4 c) at least one storage device storing a computer

5 executable code which, when executed by the at least

6 one processor, performs a method of

7   1) accepting by a proxy, ad availability

8   information from an advertiser, wherein the ad

9   availability information is associated with an

10   ad to be served, and wherein the advertiser is

11   not the proxy,

12   2) multicasting, by the proxy, requests for

13   offers using the accepted ad availability

14   information associated with the ad to be served

15   to at least two content owners, wherein the at

16   least two content owners are different from the

17   advertiser and the proxy,

18   3) receiving, by the proxy, offers to place an

19   ad of the advertiser on at least one ad spot of

20   at least one pageview of each of the at least

21   two content owners,

22   4) determining, by the proxy, at least one

23   winning ad spot using the offers, and

24   5) providing, by the proxy, information

25   concerning at least one of the at least one

26   winning ad spot to the advertiser.

1 Claim 55: The apparatus of claim 54, further comprising:

2   6) recording, by the proxy, advertiser billing

3   information associated with the ad availability

4   information.

1 Claim 56: The apparatus of claim 55, further comprising:

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2   7) billing, by the proxy, the advertiser

3   associated with the ad availability information

4   using the advertiser billing information.

1 Claim 57: The apparatus of claim 55, further comprising:

2   7) billing, by the proxy, the advertiser

3   associated with the ad availability information

4   using the advertiser billing information and a

5   previously agreed upon guarantee.

1 Claim 58: The apparatus of claim 55, further comprising:

2   7) billing, by the proxy, the advertiser

3   associated with the ad availability information

4   using the advertiser billing information and a

5   previously agreed upon guarantee, wherein the

6   previously agreed upon guarantee includes a

7   cost percentage.

1 Claim 59: The apparatus of claim 54, wherein the ad

2 availability information includes offer rules required by

3 the advertiser associated with the ad availability

4 information.

1 Claim 60: The apparatus of claim 59, wherein at least

2 some of the requests for offers include at least some of

3 the offer rules.

1 Claim 61: The apparatus of claim 59, wherein the

2 requests for offers include none of the offer rules.

1   Claim 62: The apparatus of claim 59, wherein the act of
2   determining at least one winning ad spot enforces strict
3   offer rule compliance.

1   Claim 63: The apparatus of claim 59, wherein the act of
2   determining at least one winning ad spot converts an
3   offer that is not in compliance with an offer rule to a
4   converted offer that is compliant with the offer rule.

1   Claim 64: The apparatus of claim 63, wherein the act of
2   converting uses estimated ad performance information.

1   Claim 65: The apparatus of claim 63, wherein the act of
2   converting uses estimated ad selection rate information.

1   Claim 66: The apparatus of claim 63, wherein the act of
2   converting uses estimated ad conversion rate information.

X. Evidence appendix

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132. However, an appendix labeled as Exhibit A showing the well accepted understanding of an "ad agency" is filed herewith.

XI. Related proceedings appendix

There are no decisions rendered by a court of the Board in any proceeding identified in section II above pursuant to 37 C.F.R. § 41.38 (c) (1) (ii).

Exhibit A

Advertising agency

From Wikipedia, the free encyclopedia

An **advertising agency** or **ad agency** is a service business dedicated to creating, planning and handling advertising (and sometimes other forms of promotion) for its clients. An ad agency is independent from the client and provides an outside point of view to the effort of selling the client's products or services. An agency can also handle overall marketing and branding strategies and sales promotions for its clients.

Typical ad agency clients include businesses and corporations, non-profit organizations and government agencies. Agencies may be hired to produce an advertising campaign.

Contents

History

George Reynell, an officer at the *London Gazette*, set up what is believed to be the first advertising agency in London, United Kingdom, in 1812. This remained a family business until 1993, as 'Reynell & Son', and is now part of the TMP Worldwide agency (UK and Ireland) under the brand *TMP* Reynell.[citation needed] Another early advertising agent in London was Charles Barker, and the firm he established traded as 'Barkers' until 2009 when it

went into Administration.

Volney B. Palmer opened the first American advertising agency, in Philadelphia in 1850. This agency placed ads produced by its clients in various newspapers

produce "photographs, ambrotypes and daguerreotypes. His ads were the first whose typeface and fonts were distinct from the text of the publication and from that of other advertisements. At that time all newspaper ads were set in agate and only agate. His use of larger distinctive fonts caused a sensation. Later that same year Robert Bonner ran the first full-page ad in a newspaper.

In 1864, William James Carlton began selling advertising space in religious magazines. James Walter Thompson joined this firm in 1868. Thompson rapidly became their best salesman, purchasing the company in 1877 and renaming it the James Walter Thompson Company, which today is the oldest American advertising agency. Realizing that he could sell more space if the company provided the service of developing content for advertisers, Thompson hired writers and artists to form the first known Creative Department in an advertising agency. He is credited as the "father of modern magazine advertising" in the US.

Types of advertising agencies

Ad agencies come in all sizes and include everything from one or two-person shops (which rely mostly on freelance talent to perform most functions), small to medium sized agencies, large independents such as SMART and TAXI, and multi-national, multi-agency conglomerates such as Omnicom Group, WPP Group, Publicis, Interpublic Group of Companies and Havas.

Limited-Service Advertising Agencies

Some advertising agencies limit the amount and kind of service they offer. Such agencies usually offer only one or two of the basic services. For example, although some agencies that specialize in "creative" also offer strategic advertising planning service, their basic interest is in the creation of advertising. Similarly, some "media-buying services" offer media planning service but concentrate on media buying, placement, and billing.

When the advertiser chooses to use limited-service advertising agencies, it must assume some of the advertising planning and coordination activities that are routinely handled by the full-service advertising agency. Thus, the advertiser who uses limited-service agencies usually takes greater responsibility for the strategic planning function, gives greater strategic direction to specialist creative or media agencies, and exercises greater control over the product of these specialized agencies, ensuring that their separate activities are well-ordered and -coordinated.

Specialist Advertising Agencies

In addition to the full-service, general-line advertising agencies, there are also agencies that specialize in particular kinds of advertising: recruitment, help-wanted, medical, classified, industrial, financial, direct-response, retail, yellow pages, theatrical/entertainment, investment, travel, and so on.

Specialization occurs in such fields for a variety of reasons. Often, as in recruitment advertising, for example, specialized media or media uses are involved that require knowledge and expertise not ordinarily found in a general-line agency. In other cases, such as medical or industrial advertising, the subject is technical and requires that writers and artists have training in order to write meaningful advertising messages about it.

Such specialist advertising agencies are also usually "full-service," in that they offer all the basic advertising agency services in their area of specialization plus other, peripheral advertising services related to their area of specialization.

In-House Advertising Agencies

Some advertisers believe that they can provide such advertising services to themselves at a lower cost than would be charged by an outside agency.

Interactive agencies

Interactive agencies may differentiate themselves by offering a mix of web design/development, search engine marketing, internet advertising/marketing, or e-business/e-commerce consulting. Interactive agencies rose to prominence before the traditional advertising agencies fully embraced the Internet. Offering a wide range of services, some of the interactive agencies grew very rapidly, although some have downsized just as rapidly due to changing market conditions. Today, the most successful interactive agencies are defined as companies that provide specialized advertising and marketing services for the digital space. The digital space is defined as any multimedia-enabled electronic channel that an advertiser's message can be seen or heard from. The 'digital space' translates to the Internet, kiosks, CD-ROMs, DVDs, and lifestyle devices (iPod, PSP, and mobile). Interactive agencies function similarly to advertising agencies, although they focus solely on interactive advertising services. They deliver services such as strategy, creative, design, video, development, programming (Flash and otherwise), deployment, management, and fulfillment reporting. Often, interactive agencies provide: digital lead generation, digital brand development, interactive marketing and communications strategy, rich media campaigns, interactive video brand experiences, Web 2.0 website design and development, e-learning Tools, email marketing, SEO/SEM services, PPC campaign management, content management services, web application development, and overall data mining & ROI assessment.

The recent boost in the interactive agencies can also be attributed to the rising popularity of web-based social networking and community sites. The creation of sites such as MySpace, Facebook and YouTube have sparked market interest, as some interactive agencies have started offering personal and corporate community site development as one of their service offerings. It still may be too early to tell how agencies will use this type of marketing to monetize client ROI, but all signs point to online networking as the future of brand marketing and Interactive being the core of Brand's Communication and Marketing Strategy.

Due to the social networking explosion, new types of companies are doing reputation management. This type of agency is especially important if a company needs online damage control. If a customer becomes disgruntled, it is very easy to damage a company's reputation via social networking sites. Because of how rapidly the information spreads, it becomes absolutely necessary to address any rumors, gossip or other negative online press immediately.

Search engine agencies

Lately, pay per click (PPC) and (SEO) search engine optimization firms have been classified by some as 'agencies' because they create media and implement media purchases of text based (or image based, in some instances of search marketing) ads. This relatively young industry has been slow to adopt the term 'agency', however with the creation of ads (either text or image) and media purchases, they do technically qualify as 'advertising agencies'.

Social media agencies

Social media agencies specialize in promotion of brands in the various social media platforms like blogs, social networking sites, Q&A sites, discussion forums, microblogs etc. The two key services of social media agencies are:

- social media marketing
- online reputation management

Healthcare communications agencies

Healthcare communications agencies specialize in strategic communications and marketing services for the Healthcare and Life Science industries. These agencies distinguish themselves through an understanding of the strict labeling and marketing guidelines mandated by the U.S. Food and Drug Administration (FDA) and industry group guidelines, most notably ADVAMED and PHARMA.

Notable examples include: Dudnyk

Medical education agencies

Medical education agencies specialize in creating educational content for the Healthcare and Life Science industries. These agencies typically specialize in one of two areas:

- Promotional education - education and training materials tied to the promotion of a given product or therapy
- Continuing medical education - accredited education and training materials created for continuing physician and medical professional education.

Other agencies

While not advertising agencies, *enterprise technology agencies* often work in tandem with advertising agencies to provide a specialized subset of services offered by some interactive agencies: Web 2.0 website design and development, Content management systems, web application development, and other intuitive technology solutions for the web, mobile devices and emerging digital platforms.

The student-run advertising agency model, which mainly operates out of university classrooms or as a student groups, provides free advertising services to clients in exchange for the educational opportunity.

Agency departments

Creative department

The people who create the actual ads form the core of an advertising agency. Modern advertising agencies usually form their copywriters and art directors into creative teams. Creative teams may be permanent partnerships or formed on a project-by-project basis. The art director and copywriter report to a creative director, usually a creative employee with several years of experience. Although copywriters have the word "write" in their job title, and art directors have the word "art", one does not necessarily write the words and the other draw the pictures; they both generate creative ideas to represent the proposition (the advertisement or campaign's key message). Creative departments frequently work with outside design or production studios to develop and implement their ideas. Creative departments may employ production artists as entry-level positions, as well as for operations and maintenance. The creative process forms the most crucial part of the advertising process.

Account services

Agencies appoint account executive to liase with the clients. The account executives need to be sufficiently aware of the client's needs and desires that can be instructed to the agency's personnel and should get approval from the clients on the agency's recommendations to the clients. Creativity and marketing acumen are the needed area of the client service people. They work closely with the specialists in each field.

Media services

The *media services* department may not be so well known, but its employees are the people who have contacts with the suppliers of various creative media. For example, they will be able to advise upon and negotiate with printers if an agency is producing flyers for a client. However, when dealing with the major media (broadcast media, outdoor, and the press), this work is usually outsourced to a media agency which can advise on *media planning* and is normally large enough to negotiate prices down further than a single agency or client can.

Production

Without the *production* department, the ads created by the copywriter and art director would be nothing more than words and pictures on paper. The production department, in essence, ensures the TV commercial or print ad, etc., gets produced. They are responsible for contracting external vendors (directors and production companies in the case of TV commercials; photographers and design studios in the case of the print advertising or direct mailers). Producers are involved in every aspect of a project, from the initial creative briefing through execution and delivery. In some agencies, senior producers are known as "executive producers" or "content architects".

Modern agencies might also have a media planning department integrated, which does all the spot's planning and placements

Other departments and personnel

In small agencies, employees may do both creative and account service work. Larger agencies attract people who specialize in one or the other, and indeed include a number of people in specialized positions: production work, Internet advertising, planning, or research, for example.

An often forgotten, but integral, department within an advertising agency is traffic. The traffic department regulates the flow of work in the agency. It is typically headed by a traffic manager (or system administrator). Traffic increases an agency's efficiency and profitability through the reduction of false job starts, inappropriate job initiation, incomplete information sharing, over- and under-cost estimation and the need for media extensions. In small agencies without a dedicated traffic manager, one employee may be responsible for managing workflow, gathering cost estimates and answering the phone, for example. Large agencies may have a traffic department of five or more employees.

Advertising interns are typically university juniors and seniors who are genuinely interested in and have an aptitude for advertising. Internships at advertising agencies most commonly fall into one of **five** areas of expertise: account services, interactive, media, public relations and traffic.

An internship program in account services usually involves fundamental work within account management as well as offering exposure to other facets of the agency. The primary responsibility of this position is to assist account

managers. Functions of the account management intern may include:

• Research and analysis: Gathering information regarding industry, competition, customer product or service; as well as presenting findings in verbal/written form with recommendations

• Involvement in internal meetings and, when appropriate, client meetings

• Assisting account services in the management of creative projects

Interns often take part in the internal creative process, where they may be charged with creating and managing a website as well as developing an advertising campaign. Hands on projects such as these help interns learn how strategy and well-developed marketing are essential to a sound advertising and communications plan.

During their internship, the intern will experience the development of an ad, brochure and broadcast or communications project from beginning to end. During the internship, the intern should be exposed to as much as possible within the agency and advertising process.

See also

- List of advertising agencies

References

External links

- Ads of the World (http://www.adsoftheworld.com) - Advertising Archive and Community

Retrieved from "http://en.wikipedia.org/wiki/Advertising_agency"
Categories: Advertising agencies | Advertising